

<p style="text-align: center;">Attachment D Key Issues in Contention between WAC and SCWA and Suggested Resolution (4/13/03 Draft)</p>			
Refer.*	WAC Position	SCWA Position	Resolution Suggested by JONWRM
I. Matters SCWA feels are “Outside the proper scope of new agreement” (Source: Draft SCWA Water Policy Statement 2002. Dec. 2002. Attach. B, pg 2):			
A	A Provide ample opportunity for input from the public and periodically quantify the best possible water resource mix which optimizes provision of a reliable and economical supply of high quality water and related services while promoting a healthy environment. Quantification shall include consideration of all available supplies including conservation, recycling, ground water and surface water; and, take into account levels of reliability (including the reliability of Eel River diversions), watershed needs and environmental impacts. Maximizing opportunities that will result in minimizing or avoiding environmental mitigation and restoration costs shall be a high priority. The WAC shall determine how frequently this planning effort or elements of same will be undertaken.	SCWA’s perception of WAC’s position: WAC determines SCWA watershed planning activities/timing: Oppose as outside the proper scope of new agreement.	Providing ample opportunity for input from the public and the water contractors, the Agency shall periodically prepare a regional Urban Water Management Plan as prescribed by the California Water Code.. Funding to carry out the provisions of this subsection shall come from the Operation and Maintenance Charge. (Refer to suggested agreement language 3.1 (a) (1) recommended by JONWRM at March 24, 2003 Negotiation Session***)
F (part)	F Include a commitment by SCWA to: (a) pursue a management/funding mechanism with responsible agencies that will result in implementation of a regional watershed restoration/maintenance plan, including protection of water quality, that is supported by funds from all benefited parties who should be partners in the restoration/maintenance effort (agriculture, municipalities that extract and/or discharge water, watershed urban development, forest harvesting, gravel mining, recreation, commercial/sport fishing, Mendocino County interests, etc.); and (b) aggressively seek state and federal funds. Provide for input to this process by the WAC and include a mechanism and commitment for water contractor’s to pay their fair share of restoration/maintenance costs.	SCWA’s perception of WAC’s position: Requires SCWA to engage in watershed planning activities. Oppose as outside the proper scope of new agreement.	Providing ample opportunity for input from the public and the water contractors, the Agency shall participate in implementation of a regional Russian River watershed restoration and maintenance plan with responsible agencies that will include protection of water quality. This effort should be supported by all benefited parties within the watershed of the Russian River system who should be partners in the restoration and maintenance effort; namely agriculture, municipalities that extract and/or discharge water, urban development, forest harvesting, gravel mining, recreation, commercial and sport fishing, Mendocino County, Sonoma County and other benefited parties. This effort should also be supported by benefited parties receiving water and other resources exported from the Russian River watershed. Funding to carry out the provisions of this subsection shall be sought and come from the following sources: state and federal grants and loans, responsible agencies, benefited parties enumerated in this subsection including appropriate use and transfer of various funds provided for by this agreement that are approval by the WAC. (Refer to suggested agreement language 3.1 (a) (2) recommended by JONWRM at March 24, 2003 Negotiation Session**))

I (part)	I Provide for the conduct of ground water studies approved by the WAC and provide a repayment mechanism based on an equitable allocation of costs to the benefited parties.	SCWA's perception of WAC's position: SCWA must conduct non-transmission system ground water studies as directed by WAC. Oppose as outside the proper scope of new agreement.	Subject to case-by-case approval by SCWA, provide for the conduct of ground water studies requested by the WAC and provide a repayment mechanism based on an equitable allocation of costs to the benefited parties.
S (part)	S Reorganize WAC into a two-tier committee - technical and policy. The technical committee to meet monthly as needed and be comprised of an appointed staff representative from each local agency signatory to the agreement. The policy committee to meet every other month as needed including two semiannual meetings with Directors of the SCWA and to be comprised of an elected official appointed by the elected body of each agency signatory to the agreement. Voting to remain the same, i.e. weighted in proportion to average day peak month entitlement and require a clear majority of WAC members.	SCWA's perception of WAC's position: Requires SCWA Board to meet semiannually with WAC. Oppose as outside the proper scope of new agreement.	Issue already resolved by language negotiated re Governance (Board to appoint one of its member as liaison to WAC and who will meet twice per year with WAC.)
EE	EE Include language that states that maintenance of the Russian River high quality water supply is the highest priority and acknowledges that Russian River watershed activities affect both the quality and amount of water provided via the SCWA transmission and distribution system.	SCWA's perception of WAC's position: Adds language re. watershed activities and water quality. Oppose as outside the proper scope of new agreement.	See Item A above.

II. SCWA Framework Issues (Source: Draft SCWA Water Policy Statement 2002. Dec. 2002. Attach. C):			
1 (JJ)	JJ Water contractors desiring to amend the agreement and willing to fund new improvement(s) should be able to proceed without the consent of all parties provided they pay all costs involved due to such amendment, such amendment does not interfere with delivery of entitlements to non-consenting party(s), and provision is made to include non-consenting party(s) at a later date provided sufficient capacity is available and, provided further that the previously non-consenting party(s) adequately compensate parties who paid for the improvement(s).	Eliminate ability of single party to veto construction of new facilities requested and paid for by other parties to agreement. (Consistent with Water Advisory Committee (WAC) Item JJ.).	<p>Add following to “Amendments” section of existing agreement:</p> <p>“(c) In the event an aqueduct or aqueduct segment, storage facility, pumping plant, treatment facility, appurtenant and ancillary facilities or other project is added or revised to change the routing, location, configuration or capacity set forth in supporting documents available at the time this agreement was first approved, such addition or revision shall be deemed approved and not require an amendment of this agreement, provided:</p> <ul style="list-style-type: none">(1) The delivery of entitlement of any water contractor set forth in Section x.x of this agreement is not interfered with by virtue of such revision,(2) The addition or revision is approved by the WAC,(3) The addition or revision is approved by the Agency,(4) The cost of the addition or revision is paid for by the beneficiaries who approve the addition or revision pursuant to funding and repayment arrangements contained in this agreement or special funding and repayment arrangements if deemed necessary by the WAC and Agency, and(5) Appropriate compliance with environmental impact laws is achieved. <p>Said addition or revision may include surplus capacity which may be made available to a water contractor who later requests and receives approval of the WAC to participate in the addition or revision as a beneficiary provided such requesting water contractor makes arrangements satisfactory to the WAC which will, as a minimum, recover a fair share of all costs appropriately allocated to said requesting water contractor.”</p> <p>(Refer to suggested agreement language 1.6 (c) recommended by JONWRM at March 24, 2003 Negotiation Session**)</p>
2 (O, P) (Feb 10 Memo)	<p>O Make implementation of cost-effective recycled water projects that reduce potable water demand a high priority.</p> <p>P Include recycled water requirements contained in the MOU.</p> <p>Feb 10 Memo*: Support regional use of recycled water but do not support one-size fits</p>	Require water contractors to implement minimum of 5 percent urban recycled water reuse (reuse must constitute 5 percent of total supply, including supply from non-SCWA sources; reuse may include groundwater protection for existing potable supplies or supplementation projects, and must offset use of Russian River water).	Adopt 5 percent as defined by SCWA as an overall regional goal (including MMWD and NMWD service areas) with individual local projects to compete and be determined and prioritized on a cost-effective basis by WAC. WAC to be responsible for identifying and prioritizing projects collectively achieving the overall 5 percent goal. Said projects to be assisted with pooled financing to be raised by a special “Recycled Water Charge”. Overall 5 percent goal to be subject to upward

	all approach. Object to target reduction including potable local supply offset – goal should be based on SCWA use only.		amendment after further study and approval of WAC.
3 (B)	B Make conservation a high priority and provide incentives for aggressive water conservation efforts, which are tailored to local conditions and meet or go beyond the BMPs.	Permit water contractors to modify conservation programs if required by State.	No longer an issue as agreed to in Conservation language already negotiated.
4 (Feb 10 Memo)	Feb 10 Memo: Could be an appropriate idea, though not clear why such a formal process is necessary. Do not believe this belongs in agreement.	Require Water Contractors desiring increased supply of water to make a formal presentation to Agency’s Board of Directors (Board) requesting such increased supply.	Include current provision of Eleventh Amended Agreement that appears in Section “1.6 Amendments” and amend as follows: “After a publically noticed hearing before the Agency’s Board of Directors, any annual delivery limit contained in section 3.1 may be modified by written agreement between the Agency and the water contractor to which such annual delivery limit applies without the consent of the other parties to this agreement for the purpose of conforming such annual delivery limits to a general plan which is applicable to the service area of such water contractor. Copies of any such written agreement shall be provided to all the parties to this agreement.”
5 (Feb 10 Memo)	Feb 10 Memo: Seems to place SCWA in regulatory role over the water contractors in areas that are state and federal jurisdiction. Do not support this idea of taking away local control and adding additional regulatory layers. This is beyond authority of SCWA.	Request the Water Contractors, Marin Municipal Water District (MMWD), Windsor, and other Russian River customers identify and take steps necessary to ensure that water supply, flood control, and sanitation activities within the Russian River watershed and other watersheds where listed fish species occur are conducted in a manner that is protective of listed fish species.	The water contractors shall each examine the impacts of operation of water supply, sanitation, flood control and other public works under their jurisdiction for ways and means of complying with fish and wildlife protection and recovery laws including the Endangered Species Act and implement those ways and means they determine are warranted to achieve compliance. (Refer to suggested agreement language 3.1 (b) recommended by JONWRM at March 24, 2003 Negotiation Session**)
6 (Feb 10 Memo)	Position of WAC is same as for SCWA Framework Issue 5 immediately above. Also, do support cooperative agreements to accomplish the goal of species recovery.	Request Water Contractors, MMWD, Windsor, and other Russian River customers to support recovery planning efforts for threatened salmonid species per the signed Memorandum of Understanding (MOU) for recovery planning between coastal California counties (including Marin and Sonoma), the NMFS, California Department of Fish and Game, and the U.S. Army Corps of Engineers, and to take such actions as are determined by the WAC to be necessary to support such recovery planning efforts.	Include a Salmonid Recovery Charge in new agreement and mechanism for funding local recovery efforts similar to funding program devised for water conservation.

7 (N, O) (Feb 10 Memo)	<p>N Include a separate charge and fund to help pay for cost-effective recycled water projects that reduce demand for potable water from the SCWA aqueduct system and which are approved by the WAC.</p> <p>O Make implementation of cost-effective recycled water projects that reduce potable water demand a high priority.</p> <p>Feb 10 Memo: Do not support Agency purchase of recycled water supplies. Do support working cooperatively with SCWA to best use the recycled resource.</p>	Authorize the Agency to purchase recycled water supplies and fund, as part of the transmission system, certain recycled water projects.	Include a separate charge and fund to help pay for cost-effective recycled water projects, including projects proposed by SCWA, which are approved by the WAC.
8 (Feb 10 Memo)	Feb 10 Memo: Do not support as facilities that are intended to eliminate impairment condition as they should be built by end of current term of MOU (Sept. 30, 2005).	Extend period during which the MOU Regarding Water Transmission System Capacity Allocation During Temporary Impairment (MOU for Temporary Impairment) is effective, and incorporate provisions of the MOU for Temporary Impairment into the Restructured Agreement for Water Supply.	Agree to include extension suggested by SCWA but only if facilities called out in MOU are not built by the time the new agreement is ready to formally approve.
9 (Feb 10 Memo)	Feb 10 Memo: Qualified support. More detail required. Demand hardening needs to be addressed.	Revise provisions for determining allocations during periods of impairment or shortage.	Revise “Shortage and Apportionment” language to account for demand hardening. Suggest focus of adjustment be on wintertime use levels impacted by conservation devices and programs that have been instituted which are not of a crisis nature. Review/analyze local supply capabilities, revise allocations during periods of impairment or shortage.
10 (Feb 10 Memo)	Feb 10 Memo: Premature as currently negotiating “deal breakers” with MMWD and Town of Windsor.	Consider adding MMWD and the Town of Windsor as parties to the Restructured Agreement for Water Supply as unanimously recommended by the WAC.	Agree to consider adding MMWD and/or Town of Windsor if these parties respond favorable to WAC letters currently being negotiated.
11 (Feb 10 Memo)	Feb 10 Memo: Qualified support. Premature to support this fully until Item 10 Issue is resolved.	If MMWD and Windsor do not become parties, require the Agency to use its best efforts to amend MMWD and Town of Windsor agreements to conform to provisions in the Restructured Agreement for Water Supply.	Defer until Item 10 effort runs its course.

12 (X, Y) (Feb 10 Memo)	<p>X Provide for incremental issuance of debt to finance major elements of the transmissions system when, as and if they become needed using the same cost allocation approach as contained in the existing agreement.</p> <p>Y Include the option to provide for issuance of debt as needed to help finance locally sponsored recycled water, ground water rehabilitation/development and conservation projects determined to be cost-effective by the WAC. To be repaid by the benefiting party over time.</p> <p>Feb 10 Memo: Need more information re. changes proposed by SCWA. Concerned about water contractors paying for projects that have no water supply benefit.</p>	Incorporate changes suggested by Agency bond counsel to decrease cost and increase flexibility of financing capital projects.	Review and consider changes proposed by Agency bond counsel. Agree to if meet financing requirements of fully implementing improvements enumerated or contemplated in new agreement – including capability to finance capital improvements that may be approved and added to the agreement in the future.
13 (Feb 10 Memo)	Feb 10 Memo: See Item 5 comments.	Require Water Contractors, the Agency's Russian River Customers, and MMWD to pay a separate charge in order to pay an appropriate share for the cost of Agency compliance activities associated with the federal and state Endangered Species Acts, as well as other environmental laws and regulations.	See resolution suggested for Item 6.
14 (Feb 10 Memo)	Feb 10 Memo: Do not support.	Categorize major repairs and replacements of all facilities (including aqueduct and storage facilities) as "common facilities," the cost of which would be shared by all Water Contractors.	Retain categories of major repairs and replacements of facilities as currently provided for in Eleventh Amended Agreement (by aqueduct, common facilities, storage facilities) and include repair/replacement charge for each category in new agreement. Provide that in an emergency the Agency may pool these funds for a given repair or replacement if other reserves become depleted or are inadequate.
15 (Feb 10 Memo)	Feb 10 Memo: Qualified support. Could result in needed flexibility for SCWA and water contractors.	Create a mechanism for reallocation of entitlements no longer desired by a party.	Retain current method of making excess entitlements available to another water contractor. Add provision for reducing an entitlement and reallocation of same to other water contractors or other agency customers provided consented to by party whose entitlement is being reduced and by WAC.

16 (Feb 10 Memo)	Feb 10 Memo: Do not support. No correlation between such a financial obligation and reliable, high quality water supply.	Authorize SCWA, following approval of funding by the WAC, to construct and operate appropriate recreational facilities on Agency water supply and transmission system lands.	Authorize SCWA, following approval by the WAC, to construct and operate appropriate recreational facilities on Agency land that has been acquired as part of the water supply and transmission system. Expenditure by Agency of any revenues arising from the water supply agreement for recreational purposes (capital improvements, operation or other related expenses) must be approved in advance by the WAC.
------------------------	--------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Notes:

- * Refers to source of issue, i.e. Framework Issue number (WAC issues are denoted by alpha characters, SCWA issues by numeric characters) or other source such as the Memo dated Feb. 10, 2003 from Chris DeGabriele to WAC setting forth the recommendations of the WAC Subcommittee that reviewed SCWA’s proposed Framework Issues (Attach. C to SCWA Draft Water Policy 2002). For full copy of this memo refer to Attach. C to Summary of Sixth Negotiation Session.
- ** Suggested language referred to deals with following Framework Issues: Planning, Watershed Management. and Basic Agreement Concepts. At the March 24th Negotiation Session JONWRM recommended some starting point language to consider for resolving these issues. For full copy of these recommendations refer to Attach. D to Summary of Sixth Negotiation Session. **Note: Strikeout and italics are used to changes to such language that JONWRM is now suggesting.**